

### **REMARKS**

This communication responds to the *Office Action* dated April 14, 2010. Claims 1, 4, 5, and 9 are amended. Claim 15 was previously canceled. No new claims are added. As a result, claims 1-14 remain pending in this application.

#### **The Rejection of Claims Under § 103**

Claims 1-14<sup>1</sup> were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,572,442 to Schulhof et al. (*Schulhof*) in view of US. Patent No. 5,956,716 to Kenner et al. (*Kenner*) and further in view of U.S. Patent Application Publication No. 2002/0087688 by Kamentsky et al. (*Kamentsky*).<sup>2</sup> In order to expedite the allowance of the present application, Applicants have amended independent claims 1, 5, and 9 to incorporate limitations of allowable claims 4. Applicants reserve the right to pursue any of the original or previously amended claims in a continuation application. As a result, claims 1, 5, and 9 are in condition for allowance. Further, since claims 2, 3, 6-8, and 10-14 depend from claims 1, 5, and 9, respectively, they too are allowable for at least the same reasons. Furthermore, these dependent claims each may contain additional patentable subject matter. Therefore, Applicants request the Examiner withdraw the rejection of claims 1-3 and 5-14 and provide a Notice of Allowance.

#### **Allowable Subject Matter**

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.<sup>3</sup> In response, the limitations of claim 4 have been incorporated into independent claims 1, 5, and 9. Additionally, general limitations applicable to transmit groups and group retransmit rates from claim 1 have been added to claim 4. As such, Applicants assert that claim 4 is now in condition for allowance.

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<sup>1</sup> Actual claims rejected are claims 1-3 and 5-14. Claim 4 is object to but deemed to include allowable subject matter.

<sup>2</sup> *Office Action* at 2.

<sup>3</sup> *Id.* at 10.

### CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 278-4057 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16 day of August, 2010.

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